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# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

**Fifty-eighth session**

**Summary record (partial)* of the 21st meeting**

Held at the Palais Wilson, Geneva, on Monday, 6 June 2016, at 10 a.m.

*Chair*: Mr. Sadi

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* No summary record was prepared for the rest of the meeting.

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*The meeting was called to order at 10 a.m.*

**Opening of the session**

1. **The Chair** declared open the fifty-eighth session of the Committee on Economic, Social and Cultural Rights.

2. **Ms. Edelenbos** (Office of the United Nations High Commissioner for Human Rights (OHCHR)) said that she wished to convey the regards of Mr. Adam Abdelmoula, the newly appointed Director of the Human Rights Council and Treaty Mechanisms Division, who had been unable to attend the opening of the session.

3. In addition to considering State party reports and communications, the Committee would be holding numerous formal and informal meetings with a wide variety of stakeholders during the session. It would also participate in a number of events in the context of the celebration of the fiftieth anniversary of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. The anniversary was an occasion to celebrate what had been achieved and also an opportunity to assess how best to put the two covenants into practice so as to strengthen human rights protection.

4. She was looking forward to the Committee's joint meeting with the Human Rights Committee later in the session. The work of the two committees on individual communications demonstrated the intrinsic link between the two covenants. The jurisprudence of both committees served as a reminder of the indivisibility and interdependence of all human rights. Nevertheless, information from jurisdictions at the national level indicated that economic, social and cultural rights did not always enjoy full recognition as human rights. A report by the Special Rapporteur on extreme poverty and human rights, Mr. Philip Alston, provided an interesting analysis in that regard.

5. OHCHR would continue to support the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The number of communications registered had more than doubled in the past year; the Committee had decided on five cases already and currently had eight pending cases before it.

6. The Change Initiative launched by the High Commissioner in 2014 sought to enable OHCHR to support the Committee's work more effectively and would also lead to enhanced support for the treaty body system throughout the process leading to the 2020 review. In response to the call put out at the twenty-seventh meeting of the Chairs of the human rights treaty bodies for an academic process to reflect on the future of the treaty body system, the Geneva Academy of International Humanitarian Law and Human Rights had invited a group of independent researchers to define the parameters for an academic research project entitled the "Academic Platform Project on the 2020 Review", which aimed to develop innovative proposals and solutions. That academic process was open to all stakeholders, including treaty body members.

7. The first report of the United Nations Secretary-General under General Assembly resolution 68/268 on strengthening the treaty body system was currently being finalized. The report would highlight the progress and challenges of the first year of implementation of the resolution and would also anticipate the requirements for the next biennium.

8. **Mr. Abdel-Moneim** asked whether information about the Academic Platform Project could be circulated in print. He also wished to know how the project would be funded.

9. **Ms. Edelenbos** (OHCHR) said that, as far as she was aware, funding for the project would be provided by the Swiss Government.

**Adoption of the agenda**

10. *The agenda was adopted.*

**Statements by national human rights institutions and NGOs**

*France*

11. **Ms. Lafourcade** (National Consultative Commission on Human Rights) said that she wished to outline the Commission's views regarding the realization of the Covenant rights, focusing on three main themes: impediments to the enjoyment of Covenant rights; the need for the Government of France to dispense with policies based on suspicion and instead aim for true equality; and human trafficking and exploitation.

12. The lack of effective access to housing without discrimination was preventing the enjoyment of the right to housing. One major impediment in that regard was the requirement to declare a fixed address in order to exercise various rights. With regard to the situation of the Roma and Travellers, the safeguards set out in an interministerial circular on the evacuation of illegal camps were not being implemented consistently. Repressive measures were being favoured over social support and integration.

13. The Commission was concerned by legislative reforms and political discourse that were too often based on prejudice and fear and that led to suspicion of groups that were in need of protection. Administrative practices and political discourse sometimes discriminated against the poor, as when a mayor preferred to pay a fine rather than build social housing. The Commission welcomed the proposed amendment to the Criminal Code that would include social insecurity as a ground for discrimination. It regretted, however, that the proposal had not been discussed in parliament for more than a year. In the context of the upcoming presidential elections, the Commission was also concerned about the increase in references to "social handouts" in political discourse.

14. With regard to the right to education, Roma children were often not allowed to enrol in school, for example because they lacked a fixed address or because their parents could not show proof that they had been vaccinated. There was also still much progress to be made with regard to promoting inclusive education for children with disabilities.

15. There was a lack of political will to develop a concept of disability that was in line with the Convention on the Rights of Persons with Disabilities. The Commission wished to see France create an inclusive society in which women and men were treated on an equal footing and gender-based violence was properly addressed. The Government should stop creating a situation of territorial, social and ethnic apartheid in which the stigmatization of certain population groups was on the rise.

16. The Commission welcomed the adoption of the 2014-2016 national action plan to combat human trafficking, which had designated the Commission as the independent national rapporteur responsible for evaluating the national policy on human trafficking. Unfortunately, the implementation of the plan had been far from effective. An increasing number of trafficking victims lacked access to safe housing, and the plan did not make any provision for their medical care. Victims must prove their identity in order to receive State health-care coverage, even though in many cases their identity documents had been confiscated by their traffickers.

17. The fund provided for in the plan had yet to be established, and no additional funding had been allocated to the Commission to enable it to fulfil its role as national rapporteur. Since the plan would soon expire, it would be very helpful to know what the Government planned to replace it with.

18. The Commission found it extremely regrettable that France had refused to make the declarations provided for in articles 10 and 11 of the Optional Protocol, and called on the Government to be more ambitious in its efforts to give effect to economic, social and cultural rights.

19. **Ms. Bianchi** (Global Initiative for Economic, Social and Cultural Rights) said that she wished to draw attention to the extraterritorial obligations of France under the Covenant, particularly with regard to the right to education in Haiti. Approximately 85 per cent of schools in Haiti were private, which had disastrous consequences on the enjoyment of the right to education in that country. France played a role in funding education in Haiti through its membership of the World Bank and the Global Partnership for Education, both of which were violating the right to education by promoting the privatization of education in a way that was not compliant with human rights. The Education for All initiative funded by those two organizations was essentially a tuition-waiver programme that covered fees to attend private schools. It was a short-term approach that promoted the long-term privatization of the education system and undermined public schools.

20. **Ms. Miller** (Global Initiative for Economic, Social and Cultural Rights) said that, while France had expressed a strong commitment to the right to education, and its President had committed to strengthening the public education system in Haiti, France had not used its influential position in the World Bank and the Global Partnership for Education to oppose the Education for All initiative. France should take all reasonable steps to ensure that human rights were promoted by the international organizations of which it was a member.

21. **Ms. Muñoz Maraver** (Women's International League for Peace and Freedom) said that the export of arms could give rise to an extraterritorial responsibility for human rights violations. A case in point was the sale of arms to members of the coalition led by Saudi Arabia that was engaging in military intervention in Yemen. The coalition was using explosive weapons in populated areas, resulting in civilian deaths and injuries and violations of civilians' rights to housing, health and education. Both Sweden and France had contributed to those human rights violations by permitting arms exports to Saudi Arabia and its allies in the air strikes on Yemen.

22. **Ms. Selleger** (International Baby Food Action Network) said that breastfeeding was a key component of the right to adequate food, health and development. Under the Global Strategy for Infant and Young Child Feeding jointly developed by the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF), States had the obligation to protect, promote and support breastfeeding. However, in France, many women continued to encounter obstacles to breastfeeding in optimal conditions and only 1.5 per cent of babies were exclusively breastfed until the age of six months. That dire situation was the result of the failure of the French State to fulfil its obligations relating to breastfeeding. By way of example, the International Code of Marketing of Breast-milk Substitutes was not fully implemented or enforced; little or no effort was made to promote or support breastfeeding; and there was no adequately funded national breastfeeding committee in place. Moreover, only 3 per cent of births took place in baby-friendly hospitals and less than 40 per cent of health-care facilities systematically provided new staff with training on breastfeeding. Under French law, women were entitled to only 10 weeks of maternity leave after birth and did not enjoy paid breastfeeding breaks. In addition, the national nutrition and health programme focused on the quantity rather than the quality of food and did not provide parents with adequate guidance on preparing healthy, home-made supplementary foods. A further cause for concern was the absence of a law to ensure the accountability of French companies for human rights violations perpetrated by their subsidiaries or subcontractors abroad, which allowed companies that violated the International Code of Marketing of Breast-milk Substitutes to go unpunished.

23. **Ms. Yildirim** (Confédération générale du travail) said that her organization considered certain aspects of French labour policy to be at odds with the spirit and letter of part III of the Covenant. In France, the growing tendency to criminalize trade union activity had led to the imposition of harsh penalties on several trade unionists at the beginning of 2016. The number of cases involving violations of fundamental trade union rights and the intimidation and repression of trade unionists was on the rise. A recent bill designed to introduce labour reforms was being fiercely contested in France and had led to large-scale trade union demonstrations. The law would pave the way for disparities in working conditions, increased competition for jobs, a rise in social dumping, the further weakening of safeguards against dismissal and a drop in salaries. Although there was evidence to suggest that the overwhelming majority of French citizens were not in favour of the new law, the Government intended to force it through parliament under a special procedure. The law enforcement strategy put in place to deal with the protests hindered the exercise of the freedom to demonstrate peacefully and safely, and freedom of association.

24. **Mr. Quentin** (European Language Equality Network) said that, contrary to the assurances provided by the French Government, discrimination based on language still existed in France. That issue had been mentioned in a recent report of the European Commission against Racism and Intolerance, which had highlighted the lack of recognition of languages other than French in the country and the need to add language to the prohibited grounds for discrimination listed in the Criminal Code. State-run schools providing intensive training in regional languages alongside standard instruction in French were administered differently to those providing instruction solely in French. The former were often charged exorbitant rents and, in regions such as the French Basque country, had been put under pressure to close. The fact that students living in the overseas departments were required to follow a standardized curriculum that did not take account of their specific linguistic needs or reflect the local culture of the department in question was also a cause for concern. Moreover, the country's regional languages were given very little airtime on radio and television.

25. **Mr. Kerdoun** asked how the French Government typically dealt with cases in which municipal authorities had refused to enrol children in school on the basis of their religion or ethnic background; what measures could be taken to protect trade union rights and to promote trade union activities when the French Government appeared to be bent on curtailing them; and whether there was any way of halting the adoption of the labour reform bill.

26. **Mr. De Schutter** asked whether the National Consultative Commission on Human Rights considered the practice of collecting data disaggregated by ethnicity to be unconstitutional and, if so, what other methods could be used to determine the level of enjoyment of economic, social and cultural rights by the different ethnic groups living in the country.

27. **Ms. Bras Gomes** said she would be interested to hear some concrete examples of how legislative reforms allegedly guided by prejudice and fear had hampered the enjoyment of economic, social and cultural rights in French society.

28. **Mr. Kedzia** said that the absence of disaggregated data made it virtually impossible to determine the extent to which ethnicity was used as a ground for multiple discrimination and to devise appropriate programmes and policies to tackle that phenomenon. He asked whether any other solution to that problem had been envisaged. He would also be interested to know of the reasons for doing away with anonymity in the job application process in France.

29. **The Chair** asked whether the International Baby Food Action Network understood the concept of "adequate food" to imply "healthy food" and whether the low level of breastfeeding in France could be partly attributed to cultural norms and beliefs.

30. **Ms. Lafourcade** (National Consultative Commission on Human Rights) said that the parents of a child who had been refused admission to a school could approach the local prefect, who represented the French State at the local level, or the head teacher of the school in question to ask for the child to be enrolled on a temporary basis until the situation had been formally resolved. Criminal proceedings had been instituted against the mayor of Béziers for allegedly drawing up a list of Muslim school children, which, in France, constituted a criminal offence. However, the proceedings had not produced an outcome, as no trace of the list could be found.

31. The National Consultative Commission on Human Rights was against collecting data disaggregated by ethnicity, preferring to rely upon data collected on the basis of objective criteria, such as the place of birth and the nationality of the parents of the persons in question. That method of data collection allowed the level of integration of persons to be determined without attaching undue importance to their ethnic identity.

32. Legislative reforms guided by fear and prejudice and the enhanced security measures adopted during the current state of emergency had led to increased police violence and abuse during searches and the restriction of the movement of certain individuals, who were required to report to the police several times a day and who were effectively prevented from enjoying family life. Migrants were also required to meet an excessive number of administrative obligations in order to keep their temporary residence permits. Furthermore, impoverished persons living in substandard housing were often accused of abusing the system when, in actual fact, only a small number of them were able to avail themselves of the benefits provided for under French housing law.

33. The dearth of data on multiple discrimination in the country was a major shortcoming. A large-scale study on tolerance and prejudice in French society had shown that ethnic groups were often subjected to multiple forms of discrimination. However, French criminal law did not recognize the concept of multiple discrimination; from a legal standpoint, it was therefore all but impossible to deal with each ground for discrimination separately. The French Diversity Charter, which could be signed by any company wishing to ban discrimination and to promote diversity in the workplace, was a noteworthy initiative undertaken by the French Government to tackle the phenomenon of multiple discrimination.

34. **Ms. Yildirim** (Confédération générale du travail) said that, notwithstanding the need to contest the erosion of labour rights and the precariousness of new jobs, efforts should be directed towards halting actions intended to discredit, intimidate and limit the role of trade unions in social dialogue, and restoring their legitimacy.

35. **Ms. Selleger** (International Baby Food Action Network) said that she understood the concept of "adequate food" to refer to food that satisfied a person's dietary needs, taking into account their age, state of health, living conditions and occupation, and that was safe for consumption, free from adverse substances and culturally acceptable. When practised under optimal conditions, breastfeeding met all those requirements and breast milk remained the most adequate source of food for children up to the age of 6 months.

36. The Committee should consider urging France to adhere to the Global Strategy for Infant and Young Child Feeding, the International Code of Marketing of Breast-milk Substitutes and the guidance on breastfeeding contained in general comment No. 15 of the Committee on the Rights of the Child, on the right of the child to the enjoyment of the highest attainable standard of health (CRC/C/GC/15).

*Sweden*

37. **Ms. Jansson Pearce** (Swedish Foundation for Human Rights) said that, in Sweden, economic, social and cultural rights did not enjoy the same protection as civil and political rights and were more difficult to claim before the national courts. The Committee should consider making a recommendation urging Sweden to incorporate the Covenant fully into its domestic legal framework and to ratify the Optional Protocol thereto.

38. The fact that municipal governments, despite bearing primary responsibility for protecting and realizing economic, social and cultural rights in Sweden, often failed to understand the content of those rights and their responsibilities in safeguarding them was a major cause for concern. The Committee should consider making a recommendation urging Sweden to raise awareness of the content of those rights and to take steps to guarantee respect for them at the municipal level.

39. Swedish civil society was also concerned that the mandate of the new national human rights institution would not cover economic, social and cultural rights.

40. A large number of the European Union citizens of Roma origin who had travelled to Sweden ended up living in extreme poverty. The Committee should consider making a recommendation urging Sweden to ensure that vulnerable European Union citizens were granted their economic, social and cultural rights.

41. In 2015, the Swedish Government had adopted a set of measures aimed at reducing the number of refugees applying for asylum in Sweden. However, those measures restricted the right of asylum seekers to family reunification and to health care. The Committee should consider making a recommendation calling upon Sweden to lift those restrictions.

42. The economic, social and cultural rights of the Sami people had long been neglected by the Swedish Government. The exploitation of their land for mining purposes threatened their culture, environment and means of subsistence. Moreover, their right to free, prior and informed consent was constantly ignored and the Swedish Government had failed to investigate and remedy the historical discrimination and repression to which they had been subjected. The Committee should also consider making a recommendation addressing those issues.

43. Furthermore, the Swedish Government had authorized cutbacks that would curtail the right of persons with disabilities to personal assistance. The Committee should consider making a recommendation calling upon Sweden to ensure that the rights of those persons were not eroded for the sake of economic concerns.

44. **Ms. Jalvemyr** (FoodFirst Information & Action Network (FIAN) Sweden), speaking on behalf of a group of Swedish non-governmental organizations, said that a narrow interpretation of the country's extraterritorial treaty obligations had resulted in a lack of adequate regulation for the protection of human rights. The Swedish national pension funds were a prime example, as some of their foreign investments in mining, agricultural land and fossil fuels contributed to breaches of the right to adequate food, water, health, and free and prior informed consent. The funds were self-regulated, and relevant guidance placed a higher value on revenue than on ethics and the environment. She called on the Committee to recommend that Sweden should: clarify the parliamentary directive on national pension funds in order to remind them that their investments must respect human rights and the environment; set up an independent mechanism to monitor the funds' activities; and establish a remedy for persons whose rights had been infringed by the companies in which the funds had invested.

45. **Mr. Kedzia** requested specific examples of foreign investments by the pension funds that infringed economic, social and cultural rights.

46. **Ms. Jalvemyr** (FIAN Sweden) said that the pension funds had been investing for several years in Goldcorp's mining projects in Guatemala. The funds had claimed that the best way to ensure that Goldcorp acted ethically was to continue investing in its projects and keep the dialogue open. However, while claiming that many improvements had been made on the ground, the funds had ended the dialogue in 2012 without releasing any records of it, so it was impossible to know what criteria had been imposed on Goldcorp or what progress had really been made.

*Honduras*

47. **Ms. del Cid Mata** (Foro de Mujeres por la Vida) said that none of the organizations that made up Plataforma EPU, on whose behalf she spoke, had been involved in the preparation of the periodic report of Honduras. Approximately 70 per cent of the population lived in poverty, and the enjoyment of a decent standard of living, including the right to food, was limited by the fact that the cost of a basic monthly food basket was higher than the minimum wage. The Government's poverty-reduction efforts did not address the structural causes of hunger and were often used as a political propaganda tool. In addition, there was a disconnect between the law that made food security a government priority and public policies on resource management. Measures to tackle unemployment and underemployment had resulted in more temporary jobs and unregulated workdays rather than in greater job security. Furthermore, the increase in public expenditure on defence far outstripped the rise in education and health spending, and privatization processes under way in the areas of health, education, housing and infrastructure were hampering the realization of economic, social and cultural rights. Poverty, compounded by the high level of violence, was one of the main causes of the significant emigration rate.

48. **Mr. Reyes Velásquez** (Asociación LGTB Arcoiris) said that the 2009 coup d'état had led to a regression in the enjoyment of human rights in Honduras, a weakening of State institutions and a takeover by the armed forces of tasks extraneous to their mandate. Under the current economic policy and extractive industry-led development model, farming, indigenous and other vulnerable communities were being stripped of their lands and forcibly evicted, in violation of their right to prior consultation and self-determination. So-called "charter cities" posed a particularly grave threat to the common ownership of natural resources. In addition, Honduras was among the most dangerous countries in the world for human rights defenders, as illustrated by the recent murder of two members of the Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (Council of Popular and Indigenous Organizations of Honduras), even though they were the object of precautionary measures granted by the Inter-American Commission on Human Rights.

49. **Mr. Ochoa** (FIAN Honduras) said that gender inequality in Honduras was blatant, violence against women and girls was systematic and structural and there was widespread impunity for violations of women's rights. Moreover, policies on sexual and reproductive health and rights were inadequate, emergency contraceptives and abortion were criminalized and women endured longer workdays for less pay. The lesbian, gay, bisexual, transgender and intersex (LGBTI) community was discriminated against by both the Government and society, particularly in matters of health and education. There was no training in matters of sexual orientation and gender identity; nor were there any laws on the provision of psychological and medical care for LGBTI persons.

50. Accordingly, he called on the Committee to recommend that the State party should: ratify the optional protocols to the Covenant and to the Convention on the Elimination of All Forms of Discrimination against Women; ensure equal access to land; safeguard the right of indigenous peoples to consultation, sovereignty and autonomy; effectively prevent, investigate and prosecute all assaults against human rights defenders; take steps to

counteract gender inequality in all spheres; repeal laws that promoted instability in the labour market; and adopt anti-discrimination policies with regard to the LGBTI population.

51. **Ms. Bolaños Vargas** (Plataforma Internacional contra la Impunidad) said that, while violence was widespread in Honduras, human rights defenders were at particular risk of arbitrary detention, murder and enforced disappearance at the hands of State and non-State actors. Some 16 human rights defenders had been killed between 2001 and 2016, but no one had been prosecuted or punished for the killings. The impact of the Human Rights Defenders Protection Act, adopted in 2015, was weakened by a lack of coordination among the government entities responsible for enforcing protection measures and by the four-week time frame for the completion of a risk assessment. Moreover, its implementing regulations had yet to be adopted. Far from protecting human rights defenders, the Government spoke out against them and criminalized their work.

52. She therefore called on the Committee to recommend the establishment of a special prosecutor's office for human rights defenders and the issuance of a presidential decree that recognized the fundamental work of human rights defenders, instituted a zero-tolerance policy with regard to any threat or violence against them, and required all authorities to fully cooperate with them.

53. **Mr. Mancisidor**, supported by **Mr. Ribeiro Leão**, requested further information on the negative impact of the privatization processes under way in Honduras, given that privatization in itself was not contrary to the Covenant. He asked whether the Government had made any recent public statements on its intention to ratify the optional protocols to the Covenant and to the Convention on the Elimination of All Forms of Discrimination against Women.

54. **Mr. Uprimny** requested an update on the investigation of the murders of Berta Cáceres and Nelson García.

55. **Ms. del Cid Mata** (Foro de Mujeres por la Vida) said that people were dying of preventable diseases due to insufficient funding. There was also a fear that corruption would mar the accreditation of private health-care providers.

56. **Mr. Ochoa** (FIAN Honduras) said that, given the increasing gap between the cost of living and the minimum wage, a higher proportion of the population would be unable to access basic services if they were privatized. The Government had rejected the recommendations regarding the ratification of the optional protocols made during the universal periodic review of Honduras in 2015. A national campaign had been launched to promote the instruments, but the Government still showed no interest.

57. **Mr. Sánchez** (Consejo Cívico de Organizaciones Populares e Indígenas de Honduras) said that the Public Prosecution Service was being very secretive about the Cáceres case and had not shared the investigation report with the family or other interested parties. A day of action was planned for 15 June 2016 to demand justice in the case, specifically the publication of the investigation report, the replacement of the Public Prosecution Service as the investigating authority on grounds of bias, and the immediate and definite cessation of work on the hydroelectric dam projects that Berta Cáceres had been contesting.

*Burkina Faso*

58. **Mr. Silga** (FIAN Burkina Faso), referring to the specific situation in Essakane and Kounkoufouanou, said that the Government's efforts to ensure food security had failed to fully realize the right to food, partly because the 2009 law on rural land tenure had had the unforeseen effect of hastening the dispossession of small landholders. Moreover, the right to food was not enshrined in the Constitution or any other laws or regulations. He called on

the Committee to urge Burkina Faso to take steps to ensure the full enjoyment of economic, social and cultural rights.

59. **Mr. De Schutter** asked how the land tenure reform had intensified land grabs and what was being done to prevent the practice.

60. **Mr. Silga** (FIAN Burkina Faso) said that, in 1999, the Government had adopted a policy to promote agribusiness as a means of achieving food security and it was in that context that the rural land tenure law had been enacted. The law itself was not bad; however, the institutions it provided for had not been set up everywhere, leaving parts of the country vulnerable to land grabs.

61. **The Chair** thanked the NGOs for their contribution and said that the Committee would welcome any additional comments in writing.

*The discussion covered in the summary record ended at noon.*